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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-776

13 **KERRY VINCENT GULLICK**
4549 W. Avenue, M6
Lancaster, CA 93536

A C C U S A T I O N

14 Registered Nurse License No. 732471

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about July 24, 2008, the Board of Registered Nursing (Board) issued
23 Registered Nurse License No. 732471 to Kerry Vincent Gullick (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on December 31, 2013, unless renewed.

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1 "(e) Making or giving any false statement or information in connection with the
2 application for issuance of a certificate or license.

3 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
4 functions, and duties of a registered nurse, in which event the record of the conviction shall be
5 conclusive evidence thereof."

6 7. Section 2762 states, in pertinent part:

7 "In addition to other acts constituting unprofessional conduct within the meaning of this
8 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
9 chapter to do any of the following:

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11 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
12 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
13 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
14 himself or herself, any other person, or the public or to the extent that such use impairs his or her
15 ability to conduct with safety to the public the practice authorized by his or her license.

16 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
17 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
18 or the possession of, or falsification of a record pertaining to, the substances described in
19 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
20 thereof."

21 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
22 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
23 to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the
24 Board may renew an expired license at any time within eight years after the expiration.

25 **REGULATORY PROVISIONS**

26 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

27 "A conviction or act shall be considered to be substantially related to the qualifications,
28 functions or duties of a registered nurse if to a substantial degree it evidences the present or

1 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
2 safety, or welfare."

3 COST RECOVERY

4 10. Section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 FIRST CAUSE FOR DISCIPLINE

9 (Conviction of Substantially Related Crime)

10 11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and
11 490, in conjunction with California Code of Regulations, title 16, section 1444, in that
12 Respondent has been convicted of a crime substantially related to the qualifications, functions, or
13 duties of a registered nurse, as follows:

14 a. On or about April 11, 2011, after pleading guilty, Respondent was convicted of one
15 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
16 having 0.08% and more, by weight, of alcohol in his blood] in the criminal proceeding entitled
17 *The People of the State of California v. Kerry Vincent Gullick* (Super. Ct. Los Angeles County,
18 2011, No. 1AV02206.) The Court sentenced Respondent to serve 3 days in Los Angeles County
19 Jail and placed him on 36 months probations, with terms and conditions. The circumstances
20 surrounding the conviction are that on or about February 9, 2011, Respondent drove a vehicle
21 while having 0.08% and more, by weight of alcohol in his blood. Respondent submitted to a
22 breath test that resulted in a breath-alcohol content level of 0.26% on the first reading, 0.23% on
23 the second reading, and 0.24% on the third reading.

24 b. On or about February 26, 1999, Respondent was convicted of one misdemeanor count
25 of violating Kansas Statute 21-3808 [obstructing legal process in misdemeanor case] in the
26 criminal proceeding entitled *City of Independence, Kansas v. Kerry Vincent Gullick* (Muni. Ct.
27 Montgomery County, 1999, No. 95CR19). The circumstances surrounding the conviction are that
28 on or about March 28, 1995, Respondent knowingly and intentionally obstructed, resisted or

1 opposed any person authorized by law to serve process in the service or execution or in the
2 attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of
3 any official duty.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol)**

6 12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
7 defined in section 2762, subdivision (b), in that Respondent used alcoholic beverages in a manner
8 dangerous or injurious to himself, another person, or the public, as follows:

9 a. On or about November 20, 2011, during an investigation of a three car traffic
10 collision, by the California Highway Patrol Department, Respondent was contacted. While
11 speaking Respondent, the officer detected a strong odor of an alcoholic beverage emitting from
12 his person. He was observed to have red bloodshot eyes and slurred speech. When asked if he
13 had anything to drink, Respondent stated, "nothing." Respondent was subsequently arrested for
14 violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or
15 drugs], Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and more, by
16 weight, of alcohol in his blood], Vehicle Code section 20002, subdivision (a) [hit and run:
17 property damage], Vehicle code section 14601.2, subdivision (a) [driving while driving privileges
18 are suspended or revoked with knowledge], and Vehicle code section 21651, subdivision (b),
19 [driving the wrong way on a divided highway]. During the booking procedure, Respondent
20 submitted to a blood test that resulted in a blood-alcohol content level of 0.31%.

21 b. On or about February 9, 2011, Respondent operated a vehicle while having
22 approximately 0.26% of alcohol in his blood. Complainant refers to, and by this reference
23 incorporates, the allegations set forth above in paragraph 11, subparagraph (a), as though set forth
24 fully.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Conviction Involving the Consumption of Alcohol)**

27 13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
28 defined in section 2762, subdivision (c), in that on or about April 11, 2011, Respondent was

1 convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this
2 reference incorporates, the allegations set forth above in paragraph 11, subdivision (a), as though
3 set forth fully.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Misrepresentation to a Licensing Authority)**

6 14. Respondent is subject to disciplinary action under section 2761, subdivision (a) and
7 (e), in that Respondent misrepresented to the Board of Registered Nursing, by failing to reveal an
8 additional conviction case against him on his initial application, which is aside from those in
9 citation order no. 2008-2823, as more fully set forth in paragraph 11, subparagraph (b). In
10 addition, Respondent signed under penalty of perjury, under the laws of the State of California
11 that the forgoing was true and correct, on his application for licensure.

12 **DISCIPLINARY CONSIDERATIONS**

13 15. In order to determine the degree of discipline, if any, to be imposed on Respondent,
14 Complainant alleges that on or about June 8, 2009, the Board issued a Citation and Fine No.
15 2008-2823 to Respondent for violating sections 498 and 2761, subdivision (e), resulting in the
16 issuance of a \$1,000 fine for failing to disclose his prior convictions on his application, as
17 follows:

18 a. On or about February 8, 1995, Respondent was convicted of one misdemeanor count
19 of violating Kansas Statute 21-3813 [failure to appear] in the criminal proceeding entitled *City of*
20 *Independence, Kansas v. Terry Vincent Gullick* (Muni. Ct. Montgomery County, 1993, No. 93-
21 1377). The circumstances surrounding the conviction are that on or about December 29, 1993,
22 Respondent failed to appear and was found to be in contempt of court.

23 b. On or about November 27, 1991, Respondent was convicted of one misdemeanor
24 count of violating Kansas Statute 21-3701 [theft] in the criminal proceeding entitled *City of*
25 *Independence, Kansas v. Kerry Vincent Gullick* (Muni. Ct. Montgomery County, 1991, No. 91-
26 1004). The circumstances surrounding the conviction are that on or about September 14, 1991,
27 Respondent obtained or exerted unauthorized control over property with intent to deprive the
28 owner permanently of the possession, use, or benefit of the owner's property.

1 c. On or about June 13, 1990, Respondent was convicted of one misdemeanor count of
2 violating Kansas Statute 21-3701 [theft] in the criminal proceeding entitled *City of Independence,*
3 *Kansas v. Kerry Vincent Gullick* (Muni. Ct. Montgomery County, 1990, No. 90-0423). The
4 circumstances surrounding the conviction are that on or about April 24, 1990, Respondent
5 obtained or exerted unauthorized control over property with intent to deprive the owner
6 permanently of the possession, use, or benefit of the owner's property.

7 d. On or about September 6, 1989, Respondent was convicted of one misdemeanor
8 count of violating Kansas Statute 21-3701 [theft] in the criminal proceeding entitled *City of*
9 *Independence, Kansas v. Kerry Vincent Gullick* (Muni. Ct. Montgomery County, 1989, No. 89-
10 1025). The circumstances surrounding the conviction are that on or about August 22, 1989,
11 Respondent obtained or exerted unauthorized control over property with intent to deprive the
12 owner permanently of the possession, use, or benefit of the owner's property.

13 e. On or about July 19, 1989, Respondent was convicted of one misdemeanor count of
14 violating Kansas Statutes 08-1567 [driving under the influence of alcohol or drugs] and one
15 misdemeanor count of Kansas Statute section 41-0804 [transporting an open container] in the
16 criminal proceeding entitled *City of Independence, Kansas v. Kerry Vincent Gullick* (Muni. Ct.
17 Montgomery County, 1989, No. 89-0627). The circumstances surrounding the conviction are that
18 on or about May 26, 1989, Respondent drove a vehicle while under the influence of alcohol or
19 drugs and having an open container.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 732471, issued to Kerry Vincent Gullick; and

2. Ordering Kerry Vincent Gullick to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: March 15, 2013

Louise R. Bailey
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2011504989